

REMARKS/ARGUMENTS

The applicants have studied the office action mailed September 4, 2008, and believe the application is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Claims 1-5, 14-20, 26-30 and 39 have been rejected under 35 U.S.C. 102(e) as being anticipated by Baratakke et al., (US Publication No. 20051003651 I), (hereinafter Baratakke). Claims 6-13, 21-25 and 31-38 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Baratakke as applied to claims 1, 15 and 26 above, and further in view of Boyd et al., (US Publication No. 200410049580), (hereinafter Boyd). These rejections are respectfully traversed.

Claim 1, for example, is directed to a “method for sending data, comprising: establishing an active connection adapted to send packets of data between a host and a destination; receiving from the destination a first window value representing a first quantity of data packets; sending packets of data from said host to said destination; receiving an acknowledgment from said destination for each packet of data received by said destination wherein said first window value represents a limit imposed on said host by said destination on the quantity of data packets sent from said host to said destination and lacking an acknowledgment of being received by destination; and limiting the number of packets sent by said host, but not acknowledged as received by said destination, to a second quantity of data packets less than said first window value wherein said second quantity represents a limit imposed by said host on the quantity of data packets sent from said host to said destination and lacking an acknowledgment of being received by destination and wherein said second quantity is a function of the number of active connections of the host.”

It is the Examiner’s position that the Baratakke reference shows “receiving from the destination a first window value representing a first quantity of data packets [paragraphs 17-19]; ... wherein said first window value represents a limit imposed on said host by said destination on the quantity of data packets sent from said host to said destination and lacking an acknowledgment of being received by destination [paragraphs 17-19]; and limiting the number of packets sent by the said host, but not acknowledged as received by said destination, to a second quantity of data packets less than said first window value [paragraph 22].” Paragraph 22 of the Baratakke reference appears to describe a “congestion window” said to be governed by congestion in the network in which congestion is a “condition of severe delay caused by an

overload of datagrams at the switching points (e.g., at gateways or routers) resulting in dropping of packets.” Accordingly, it is clear that the Examiner’s citations to the Baratakke reference fail to teach or suggest a transmission window which is “a function of the number of active connections of the host” as required by claim 1. Instead, the transmission window cited by the Examiner appears to be governed by network congestion external to the host.

It is further the Examiner’s position that:

Baratakke discloses there can be a plurality of connections [Baratakke, paragraph 17, lines 13-15] and that the number of packets sent is controlled due to a delay of packets on the connections {Baratakke, paragraph 22, lines 1-15], so it would be inherent that the reduced quantity is based on the connections that are experiencing a delay.

The applicants respectfully disagree.

Although the Baratakke reference recognizes that the data processing network 102 may have “one or more connections and networks, including Internet 108,” it is believed that each sliding window (as limited by a congestion window) of the Baratakke reference applies to a *single* connection. Thus, it is believed that the congestion window for a particular connection is limited only by the congestion experienced by that connection. Furthermore, it is believed that the network congestion which affects the size of the congestion window is *external* to the host and is *not* “a function of the number of active connections of the host” as required by claim 1. Accordingly, it is clear that Examiner’s citations to the Baratakke reference fail to teach or suggest a transmission window which is “a function of the number of active connections of the host” as required by claim 1.

It is respectfully submitted that the deficiencies of the Examiner’s citations to the Baratakke reference are not met by the Examiner’s citations to the Boyd reference. Independent claims 15 and 26 may be distinguished in a similar fashion.

The rejection of the dependent claims is improper for the reasons given above. Moreover, the dependent claims include additional limitations, which in combination with the base and intervening claims from which they depend provide still further grounds of patentability over the cited art. It is therefore respectfully submitted that the rejection of the claims should be withdrawn.

The Examiner has made various comments concerning the anticipation or obviousness of certain features of the present inventions. Applicants respectfully disagree. Applicants have

addressed those comments directly hereinabove or the Examiner's comments are deemed moot in view of the above response.

Conclusion

For all the above reasons, Applicant submits that the pending claims are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 50-0585.

The attorney of record invites the Examiner to contact him at (310) 553-7970 if the Examiner believes such contact would advance the prosecution of the case.

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